

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-3186/
of OrbitCom, Inc. of Sioux) NUSF-39
Falls, South Dakota seeking)
designation as an eligible) ORDER GRANTING DESIGNATION
telecommunications carrier that) AS AN ELIGIBLE
may receive universal service) TELECOMMUNICATIONS CARRIER
support.)
Entered: September 21, 2004

APPEARANCES:

For the Applicant:

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For the Interveners:

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For the Commission:

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BY THE COMMISSION:

By application filed April 22, 2004, OrbitCom, Inc. (OrbitCom or Applicant) of Sioux Falls, South Dakota seeks designation as an eligible telecommunications carrier (ETC) so that it may receive universal service support. Notice of this application was published in The Daily Record, Omaha, Nebraska, on April 27, 2004. On May 26, 2004 the Commission received a Petition for Formal Intervention filed by the Rural Independent Companies¹ (Interveners). A public hearing on the application

¹ The "Rural Independent Companies" include Arlington Telephone Company, Blair Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco Inc., Consolidated Telcom, Inc., Eastern Nebraska Telephone Company, Great Plains Communications, Inc., K & M Telephone Company, Inc., Nebraska Central Telephone Company, Northeast Nebraska

was held on July 27, 2004, in the Commission Hearing Room, Lincoln, Nebraska. Notice of the public hearing was mailed to interested parties. Appearances at the hearing are indicated above.

O P I N I O N S A N D F I N D I N G S

OrbitCom was granted a certificate of public convenience and necessity to provide competitive facilities-based local exchange telecommunications services in Application Nos. C-2756 on August 6, 2002. According to its application, OrbitCom seeks ETC status for the area in which it has been certificated as a local exchange carrier. Accordingly, OrbitCom seeks federal ETC designation only in areas served by Qwest Corporation.

OrbitCom offers voice-grade access to the public switched network, local usage for both data and voice, dual tone multi-frequency signaling or its functional equivalent, single party service, access to emergency service, access to operator service, access to interexchange service, access to directory assistance and toll limitation for qualifying low-income consumers.

Joe Schuele, Assistant Director of Regulatory Affairs for Martin Group, Inc., testified on behalf of OrbitCom. Mr. Schuele testified that OrbitCom offers 1+ equal access for long distance calling and a standard white page listings. Furthermore, OrbitCom has provided documentation of its advertisements in a publication of general circulation, as well as other media. Finally, OrbitCom indicated that in its opinion certification of OrbitCom as an ETC would be consistent with the public interest, convenience and necessity.

Section 214(e) of the Act sets forth the standards and processes for a state commission to grant carriers the designation of eligible telecommunications carrier. The three general requirements listed in Section 214(e) are that: (1) the carrier must be a common carrier; (2) the carrier must offer the "services" that are supported by the federal fund; and (3) the carrier must advertise the availability of those services. In addition, the carrier must fulfill these criteria throughout the service area for which the designation is received.

The "services" supported by the federal fund as provided by 47 C.F.R. § 54.101(a) are as follows:

Telephone Company, Rock County Telephone Company, and Stanton Telephone Co., Inc.

- a. Voice-grade access to the public switched telephone network;
- b. Local usage;
- c. Dual tone multi-frequency signaling or its functional equivalent;
- d. Single-party service or its functional equivalent;
- e. Access to emergency services;
- f. Access to operator services;
- g. Access to interexchange service;
- h. Access to directory assistance;
- i. Toll limitation for qualifying low-income consumers.

OrbitCom provided documentation that it fulfills the requirements of 47 C.F.R. § 54.101(a) and confirms that it provides all of the above-referenced services.

OrbitCom also provided adequate examples that it has been, and will be, advertising the availability of the supported services. OrbitCom agrees with the Commission that, in the event ETC status is granted, it will advertise its universal service offerings and the charges therefore using media of general distribution pursuant to federal and Commission requirements.

Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e) and applicable federal law for the designation of eligible telecommunications carriers in the proposed geographic area.

However, this granting of ETC designation does not trigger qualification for NUSF support. Prior to receiving any NUSF support, the applicant must also be granted designation as a Nebraska Eligible Telecommunications Carrier (NETC).

Finally, the Commission has jurisdiction and authority to ensure that OrbitCom continues to meet the ETC criteria set forth in Section 214(e) of the Act. Nothing prevents the Commission from, on its own motion, modifying, suspending or revoking OrbitCom's ETC designation if it does not continue to meet those obligations.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of OrbitCom, Inc., to be designated

an Eligible Telecommunications Carrier shall be, and it is hereby, granted as amended.

IT IS FURTHER ORDERED that OrbitCom, Inc., is hereby declared to be an Eligible Telecommunications Carrier for federal support in the areas served by Qwest Corporation.

IT IS FURTHER ORDERED that OrbitCom, Inc. must also receive a Nebraska Eligible Telecommunications Carrier designation in order to be eligible for state universal service support.

MADE AND ENTERED at Lincoln, Nebraska this 21st day of September, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director